

CIVIL SERVICE COMMISSION MINUTES

SEPTEMBER 7, 2005

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 of the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

A.Y. Casillas
Barry I. Newman
Francesca Krauel
W. Dale Bailey
Cheryl Fisher

Absent was: None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer
Ellen Michaels, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

**Approved
Civil Service Commission**

October 5, 2005

COUNTY OF SAN DIEGO
CIVIL SERVICE COMMISSION MINUTES
September 7, 2005

CLOSED SESSION: No items for discussion

2:30 p.m.

OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
2,7,10,11,13	7	9	8,15

COMMENTS: Motion by Newman to approve all items not held for discussion; seconded by Bailey. Carried.

OPEN SESSION AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and approved by the Commission President.

WELCOME

1. Welcome Cheryl Fisher, Esq., newly appointed Civil Service Commissioner.

MINUTES

2. Approval of the Minutes of the regular meeting of August 3, 2005.

Commissioner Newman referred to page 4, Item 9, 2nd paragraph of the draft Minutes: He stated that the paragraph should be rephrased to clearly reflect that despite the appellant's stated concern, he did not believe that the Commission's action would preclude appellant and/or the public from reaching out for just treatment.

Approved, incorporating above change.

CONFIRMATION OF ASSIGNMENTS

3. Commissioner Bailey: Dennis J. Hayes, Esq., on behalf of **Michael Duncan**, Deputy Alternate Public Defender III, appealing a Final Order of Suspension and Charges from the Department of the Alternate Public Defender.

Confirmed.

4. Commissioner Casillas: Salvador Reyes, SEIU Local 2028 Worksite Organizer, on behalf of **Marla Castaneda**, former Detention Information Assistant, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

5. Commissioner Newman: **2005-07**, appealing an Order from the Sheriff's Department.

Confirmed.

6. Commissioner Krauel: Jason Aldrich, Esq., on behalf of **Neil Connelly**, Senior Agricultural/Standards Inspector, appealing a Final Order of Demotion in Rank and Charges (from Supervising Agricultural/Standards Inspector) from the Department of Agriculture, Weights & Measures.

Confirmed.

7. **Stacie Neldaughter**, Deputy Public Administrator-Guardian, appealing her disciplinary transfer by the Health and Human Services Agency.

RECOMMENDATION: Continue to the next Commission meeting.

Ms. Neldaughter requested to speak to this matter. She requested that the Commission expedite this appeal because she feels that her life has been negatively affected. Ms. Neldaughter explained that because of the disciplinary transfer, she has, in effect, been "terminated" from her position of six years.

Commissioner Newman explained that due to the fact that Ms. Neldaughter has stated that she has not had an opportunity to review information that has been provided to the Commission by County Counsel on behalf of HHSA, this matter must be continued out of equity and fairness.

Motion by Newman to continue; seconded by Bailey.

Commissioner Krauel stated that this is an issue of jurisdiction and continuing this item may not be in the best interests of the parties.

Patt Zmary, Executive Officer, explained that staff has not had an opportunity to review all the information submitted at this time, and has given Ms. Neldaughter until September 14th to review the information and respond. Commission

staff is also looking into jurisdictional issues regarding this transfer.

Motion Carried.

8. Richard Pinckard, Esq., on behalf of **2005-08**, appealing an Order from the Sheriff's Department.

RECOMMENDATION: Deny Request.

Richard Pinckard, Esq., appearing on behalf of 2005-08, withdrew the appeal in this matter.

Withdrawn.

DISCRIMINATION

Complaints

9. **Stacie Neldaughter**, Deputy Public Administrator-Guardian, alleging disability, sexual orientation and non-job-related factor discrimination by the Health and Human Services Agency.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff recommendation approved. Commissioner Bailey assigned.

Findings

10. Commissioner Newman: **Faten Westenfeldt**, Child Support Officer, alleging religion and national origin discrimination by the Department of Child Support Services.

Prior to the reading of the following Findings and Recommendations, Faten Westenfeldt addressed the Commission, setting forth reasons why her hearing should be granted.

FINDINGS AND RECOMMENDATION:

At the regular meeting of the Civil Service Commission on July 21, 2004 the Commission appointed Marc Sandstrom to investigate the complaint submitted by Faten Westenfeldt alleging religion and national origin discrimination by the Department of Child Support Services. This matter was reassigned to Barry I. Newman at the regular meeting of the Civil Service Commission on February 16, 2005. In accordance with the established rules and procedures of the

Civil Service Commission, the matter was concurrently referred to the Office of Internal Affairs (OIA) for investigation.

The undersigned Investigating Officer has taken into consideration all documentation, submitted by Ms. Westenfeldt and the Department, as well as the report of OIA. The Investigating Officer concludes that the evidence does not support a finding of probable cause that a violation of discrimination laws occurred.

It is therefore recommended that Ms. Westenfeldt's Rule VI discrimination complaint be denied; that the Commission approve and file this report with the appended OIA Final Investigative Report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated against; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Newman to approve Findings and Recommendations;
seconded by Krauel. Carried.**

SELECTION PROCESS

Appeals

11. Michael O'Connor, SEIU Local 2028 Union Steward, on behalf of **Mercedes Zimmer**, Legal Support Supervisor II, appealing her non-selection for the classification of Legal Support Manager by the Department of Child Support Services.

RECOMMENDATION: Deny Request.

Michael O'Connor of the Department of Child Support Services, and also a Steward of SEIU Local 2028, stated that there was substantial evidence of favoritism that needed further investigation. He suggested that the process should be redone due to bias and unfairness, and therefore, Ms. Zimmer deserves a hearing.

Dennis Floyd, Sr. Deputy County Counsel and Lyn Bell, Department Personnel Officer, stated that the evidence clearly shows that the successful candidate was not involved in any allegations of favoritism. Ms. Bell concluded that there might have been some flaws in the recruitment process which the Department would like to improve upon, but felt that the most appropriate candidate was promoted to the permanent position.

Motion by Bailey to conduct a Rule X hearing. Motion failed for lack of second.

Motion by Newman to accept staff recommendation; seconded by Krauel.

CASILLAS:	Aye
NEWMAN:	Aye
KRAUEL:	Aye
BAILEY:	No
FISHER:	Aye

Motion carried.

Findings

12. **Jonathan Fecteau**, appealing the Department of Human Resources' removal of his name from the employment list for Deputy Sheriff-Detentions/Court Services.

RECOMMENDATION: Ratify. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item No. 12 ratified.

OTHER MATTERS

Performance Appraisal

13. **Melissa Arellano**, Intermediate Clerk Typist, Health and Human Services Agency, requesting the sealing of a Performance Appraisal for the period July 28, 2003 to July 29, 2004.

RECOMMENDATION: Deny Request.

Ms. Arellano addressed the Commission regarding the request to seal her performance appraisal. The Commission also heard from Bob Gerard from the Department supporting staff's recommendation.

Commissioners Krauel and Newman each stated their positions regarding sealing of performance appraisals.

Motion by Newman to accept staff recommendation; seconded by Bailey. Carried.

Extension of Temporary Appointments

14. Health and Human Services Agency

1 Residential Care Worker II (Beatriz Villaloboz)

RECOMMENDATION: Ratify.

Item no. 14 ratified.

INFORMATION

15. Julie Buechler, Esq. on behalf of **2005-06**, withdrawal of appeal of an Order from the Sheriff's Department. (Commissioner Casillas)

16. Public Input

Stacie Neldaughter spoke to the Commission regarding Civil Service Rule V. She questioned the Commission regarding what action it is contemplating regarding the entire Rule: Whether the Commission deems to amend Rule V, or whether it desires Rule V to be completely removed from the Commission's jurisdiction. Commissioner Krauel clarified her own position regarding this Rule stating that she would either like Rule V to be amended to include specific guidance for the Commission members, or to remove Rule V in its totality.

Donna Clark-Richardson, SEIU Local 2028, on behalf of the Union, stated its strong disagreement with the removal of Rule V from the Civil Service Rules.

ADJOURNED: 3:45 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION:

OCTOBER 5, 2005